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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,296	11/08/2001	Nikiforos Kollias	J&J-2067	5320

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EXAMINER

NGUYEN, MICHELLE P

ART UNIT PAPER NUMBER

2851

DATE MAILED: 08/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/007,296

Applicant(s)

KOLLIAS ET AL.

Examiner

Michelle Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,7,9-13 and 15-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7,9-13 and 15-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed May 19, 2003 with respect to the rejection made under 35 USC 102 have been fully considered but are not persuasive.

Applicant argues that Kojima et al. do not teach the angle formed by the light source, the skin and the camera to be from about 35 degrees to about 55 degrees. However, an angle that is "about 35 degrees" could range anywhere from 0 degrees to 50 degrees, for example, while an angle that is "about 55 degrees" could range anywhere from 50 degrees to 180 degrees, for example. Therefore, the angle formed by the light source, the skin and the camera as shown in Figs. 1 and 3 of Kojima et al. is considered to be from about 35 degrees to about 55 degrees. Examiner notes that Fig. 3 does not depict the camera. However, Fig. 3 depicts a polarizing filter 13, which is described and shown in the disclosure of Kojima et al. on page 5, line 39 through page 6, line 10 and Fig. 1, respectively, as being formed just before the camera. Therefore, it is understood that the angle formed by the light source, the skin and polarizing filter 13 is the same angle formed by the light source, the skin and the camera.

As to the limitation "wherein said light filtered using said polarizing filter is not filtered with another polarizing filter prior to such light entering said camera", it would have been obvious to one having ordinary skill in the art at the time the invention was made to remove from the system of Kojima et al. the polarizing filter 13 such that light is emitted through a single polarizing filter, i.e. polarizing filter 4, for enabling examination of only surface detail. Please see the rejection under 35 USC 103 set forth below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 5, 7, 9-13 and 15-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 07-323014 to Kojima et al. in view of the article entitled "Polarized Light Examination and Photography of the Skin" to Anderson.

With regard to claim 1, Kojima et al. disclose a method of photographing the skin of a person, said method comprising the steps of:

(i) illuminating said skin (skin S) with at least one light source (light source 9), where the light emitted from said light source is filtered using a polarizing filter (polarizing filter 4) (see pages 2, lines 20-5, page 5, lines 24-30; Figs. 1, 2); and

(ii) capturing the image of said illuminated skin with a camera (CCD camera 14) (see page 5, line 39 to page 6, line 10; Fig. 1);

wherein the angle formed by said light source, said skin, and said camera is from about 35 degrees to about 55 degrees (see discussion above under the section entitled "Response to Arguments").

Kojima et al. do not teach said light filtered using said polarizing filter to not be filtered with another polarizing filter prior to such light entering said camera. Instead, Kojima et al. teach said light filtered using said polarizing filter to be filtered with a second polarizing filter (polarizing filter 13) prior to such light entering said camera.

However, Anderson teaches a method of photographing the skin of a person comprising the step of illuminating said skin with light filtered using a polarizing filter (linear polarizer), said filtered light being filtered with a second polarizing filter (camera polarizing filter) prior to such light entering a camera, wherein images with enhanced surface detail are obtained when the planes of polarization of the polarizing filters are parallel, and wherein images with enhanced internal structure detail are obtained when the planes of polarization of the polarizing filters are orthogonal (see page 1001, section "Methods", first and fourth paragraphs; page 1002, section "Parallel Planes of Polarization", first paragraph; page 1003, section "Perpendicular (Crossed) Planes of Polarization", second paragraph; Fig. 2). It is known that two polarizing filters having parallel planes of polarization are effectively equivalent to a single polarizing filter, which inherently has a plane of polarization. Therefore, it is understood that a single polarizing filter may be used to enhance surface detail; and since the system of Kojima et al. is directed to the analysis and evaluation of surface detail, it would have been obvious to one having ordinary skill in the art at the time the invention was made to remove from the system of Kojima et al. the second polarizing filter for enabling examination of surface detail only, and thereby for reducing the production of parts.

With regard to claim 3, Kojima et al. teach the polarizing filter of claim 1 to be a linear polarizing filter (see page 6, lines 3-36; Fig. 3). Further, Anderson teaches the polarizing filter of claim 1 to be a linear polarizing filter (see page 1001, section "Methods", first paragraph).

With regard to claim 5, Kojima et al. teach the polarizing filter of claim 3 to be arranged such that the electric field of the emitted light is about perpendicular to the plane formed by said light source, said person's skin, and said camera (see Figs. 1, 3).

With regard to claim 7, Kojima et al. teach the polarizing filter of claim 5 to be arranged such that the electric field of the emitted light is about vertical and the plane formed by said light source, said person's skin, and said camera is about horizontal (see Figs. 1, 3).

With regard to claims 9, 10 and 11, Kojima et al. teach said angle formed by said light source, said skin, and said camera of claims 1, 7 and 3, respectively, to be about 45 degrees (see Fig. 3; see also discussion above under section "Response to Arguments").

With regard to claim 12, Kojima et al. disclose a method of promoting a skin care product, said method comprising:

(i) illuminating the skin (skin S) of a person with at least one light source (light source 9), where the light emitted from said light source is filtered using a polarizing filter (polarizing filter 4) (see pages 2, lines 20-5, page 5, lines 24-30; Figs. 1, 2);

(ii) capturing the image of such illuminated skin with a camera (CCD camera 14), wherein the angle formed by said light source, said skin, and said camera is from about 35 degrees to about 55 degrees (see Figs. 1, 3; see also discussion above under section "Response to Arguments");

(iii) presenting (via monitor) said image to said person (see page 2, lines 16-25; Here it is understood that the person views the image displayed by the monitor); and

(iv) suggesting skin care products based upon said person's review of said image (see page 1, lines 14-37, page 3, lines 8-17);

wherein said light filtered using said polarizing filter is not filtered with another polarizing filter prior to such light entering said camera (see discussion above with respect to claim 1).

With regard to claim 13, Kojima et al. teach the method of claim 12 to further comprise presenting said person with one or more questions relating to said presented image and said suggestion of skin care products is based upon said person's answers to said one or more questions (see page 1, lines 14-37, page 3, lines 8-17; Here it is understood that the image and an interactive discussion about the image between the person and a skin examiner provide the basis for the skin examiner's suggestions relating to skin care products. It is further understood that the interactive discussion about the image includes questions about, for example, preferences relating to products, posed to the person by the skin examiner and responses to these questions.).

With regard to claims 15 and 16, see discussion above with respect to claim 3.

With regard to claims 17 and 18, see discussion above with respect to claim 5.

With regard to claims 19 and 20, see discussion above with respect to claim 7.

With regard to claims 21-29, see discussion above with respect to claims 9-11.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Patent No. 5,198,875 to Bazin et al. teaches incident light impinging on a surface under examination at an angle of between 0 degrees and 90, preferably 45 degrees.

U.S. Patent No. 5,363,854 to Martens et al. teaches recording fluorescence pictures of skin under examination using ultraviolet and blue light.

U.S. Patent Nos. 5,016,173 and 5,836,872 to Kenet et al. teach photographing visually accessible surfaces of the body using color, ultraviolet, infrared and polarized light for monitoring said surfaces so that appropriate medication and/or cosmetic products may be suggested.

U.S. Patent No. 6,032,071 to Binder teaches a skin examination device.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Nguyen whose telephone number is 703-305-2771. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams can be reached on 703-308-2847. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.

mpn
July 23, 2003


RUSSELL ADAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800